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David A. Blumenthal  
Foley & Lardner  
Suite 3500  
2029 Century Park East  
Los Angeles, CA 90067-3021

EXAMINER

SALCE, JASON P

ART UNIT

PAPER NUMBER

2611

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6

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/992,686

Applicant(s)

DUDKIEWICZ ET AL.

Examiner

Jason P Salce

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6,7,15,20,21,29,30,34-38,43-45,49-53,58,59,62-66,69-74,77-81 and 84-86 is/are rejected.
- 7) ☒ Claim(s) 2-5,8-14,16-19,22-28,31-33,39-42,46-48,54-57,60,61,67,68,75,76,82 and 83 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments with respect to claims 1-86 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 6-7, 15, 20-21, 29-30, 34-38, 43-45, 49-53, 58-59, 62-66, 69-74 and 77-81 and 84-86 and are rejected under 35 U.S.C. 103(a) as being unpatentable over Hullinger et al. (U.S. Patent No. 6,295,092) in view of Gerace (U.S. Patent No. 5,848,396).

Referring to claim 1, Hullinger discloses receiving metadata describing programming events (see Column 3, Lines 47-50 for sending ratings and share data 22 from a source such as Nielsen overnight reports), the metadata comprising goodness of fit scores associated with respective categories, and descriptive data and keyword data (see Column 4, Lines 44-56 for parsing the metadata using a parser process 58, where the data parsed can be the ratings data). The parser process 58 is further described at Column 5, Lines 44-67 and Column 6, Lines 1-12 for parsing the data (ratings and share data) into a vocabulary table, which contains a goodness of fit scores associated with a category (Score1 TableId), descriptive data (Phrase ID) and keyword data

("Crime"). Note that if the parser is parsing this data from the metadata (ratings data) received from element 22 in Figure 1, then the metadata would have to contain all the information parsed into the vocabulary table.

Hullinger also discloses arranging the categories in a hierarchy comprising at least a set of top-level categories (see "General" category in Figure 6), respective sets of first level sub-categories ("KDKA" or "WTAE" categories in Figure 6) each corresponding to and encompassed by a top level category (see link from "KDKA" to the "General" category), and respective sets of second level sub-categories each corresponding to and encompassed by a first level sub-category (see scores for a specific time period (elements 140 and 142) connected to the "KDKA" category in Figure 6).

Hullinger fails to disclose ranking the programming events in accordance with viewing preferences expressed in a viewer profile.

Gerace discloses a similar system for determining which programming events to send to a user. Gerace discloses ranking the programming events in accordance with viewing preferences expressed in a viewer profile (see ranking advertisements (programming events) according to data stored in a viewer profiles (audience profile or User Interface Object 37c) at Column 14, Lines 66-67, Column 15, Lines 1-36 and Column 17, Lines 1-17), where the viewer profile comprises preference scores associated with categories of the classification hierarchy and one keyword (see Figure 3D for element 37c, which contains a hierarchy and a keyword ("categories" in Figure 3D).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the system 10, as taught by Hullinger, to include the server 27, as taught by Gerace, for the purpose of providing better targeted advertisements to users having an interest in the information (content and presentation/format of ad), and hence providing automatic targeting of audiences and self-tailoring of target profiles (see Column 2, Lines 48-53 of Gerace).

Claim 6 corresponds to claim 1, with the additional limitations of the metadata comprising a time of the programming event (see User Viewing History option in Figure 3G) and determining a programming event ranking of the programming events and the times of the programming events (see Column 17, Lines 38-52).

Claim 7 corresponds to claim 6, with the additional limitation of the schedule comprising not more than a predetermined number of programming events within a given time period as specified in a viewer profile. The examiner takes Official Notice that it is well known store a value in a viewer profile to define the length of a list of programming events. At the time the invention was made, it would have been obvious to modify the messages object of Gerace to include a value to limit the amount of programming events viewed in a specified time period for the purpose of eliminating memory overflow from creating excessive alert schedule lists.

Referring to claim 15, see rejection of claim 1.

Referring to claims 20-21, see rejection of claims 6-7.

Referring to claim 29, see rejection of claim 1. Also note the additional limitation of creating an alert schedule in accordance with a user's profile and providing the alerts

to the user according to the said alert schedule are disclosed by the messages/notices and warnings feature 45 in Figure 4b, which allows the user to set his/her profile for a threshold, and when certain criteria meets this threshold, an alert is sent to the user (see Column 17, Lines 18-37).

Claim 30 corresponds to claim 29, where Gerace disclose the additional limitation of displaying a banner on a video screen describing a programming event in the alert schedule at Column 17, Lines 30-37 by presenting a banner in the form of a web page used to create the alert schedule.

Claim 34 corresponds to claim 29, with the additional limitations of determining an amount of time in advance of a programming event to display an alert for the programming event from the at least one viewer profile and displaying the alert according to the set time. The examiner takes Official Notice that it is well known to determine an amount of time before displaying an alert to a user. At the time the invention was made, it would have been obvious to modify Gerace to schedule which alert to transmit to a user at a specified time, for the purpose of only displaying an alert to a user at the most opportunistic time (i.e. when the user is typically home).

Claim 35 corresponds to claim 29, where Gerace teaches the additional limitation of displaying an alert to a user according to a viewer's input at Column 17, Lines 19-30.

Claim 36 corresponds to claim 35, with the additional limitation of removing an alert from the alert schedule in response to viewer input. The examiner takes Official Notice that it is well known to remove alerts from a list of alerts. At the time the invention was made, it would have been obvious to modify the alert schedule list, as

taught by Gerace, to include a means for removing alerts, for the purpose of allowing a user to avoid receiving unwanted alerts.

Referring to claims 37-38, see rejection of claim 7.

Referring to claim 43, see rejection of claim 29 for sending the alerts to a viewer.

Referring to claim 44, see rejection of claim 29.

Referring to claims 45, 49-53 and 58, see rejection of claims 30, 34-38 and 43, respectively.

Referring to claim 59, see rejection of claim 29. Also note that the additional limitation of the alert identifying the programming event and including a category and keyword from the metadata for the programming event is disclosed by the data structure of Figure 4B.

Claim 62 corresponds to claim 59, where Hullinger teaches the additional limitation of the alerts being displayed as segments (see storing segment data, where the parser is used to process segments of programs (see Column 7, Lines 52-63)).

Claim 63 corresponds to claim 59, where Gerace discloses that the alert indicates a viewer profile to which the alert corresponds (see "from user" field in Figure 4B).

Claim 64 corresponds to claim 59, where Gerace discloses that the alerts contain a title and description (see "subject" and "message" field in Figure 4B).

Claim 65 corresponds to claim 59, where Gerace discloses a graphical alert banner (see displaying a Home Page at Column 17, Lines 30-37 for displaying stock portfolio data in the form of a web page (banner)).

Referring to claim 66, see rejection of claim 59.

Referring to claims 69-72, see rejection of claims 62-65, respectively.

Referring to claims 73 and 80, see rejection of claim 59 and note that Hullinger discloses storing segment data, where the parser is used to process segments of programs (see Column 7, Lines 52-63).

Claim 74 corresponds to claim 73, where Gerace teaches the additional limitation of the alert includes category and keyword data (see "subject" and "message" field in Figure 4B).

Referring to claims 77-78, see rejection of claims 63-64, respectively.

Referring to claim 79, see rejection of claim 65.

Referring to claims 81 and 84-86, see rejection of claims 74-79, respectively.

***Allowable Subject Matter***

2. Claims 2-5, 8-14, 16-19, 22-28, 31-33, 39-42, 46-48, 54-57, 60-61, 67-68, 75-76 and 82-83 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not




Art Unit: 2611

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

  
ANDREW FAILE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

October 28, 2003